



Jeb Bush  
Governor

# Department of Environmental Protection

Central District  
3319 Maguire Boulevard, Suite 232  
Orlando, Florida 32803-3767

David B. Struhs  
Secretary

CERTIFIED MAIL

7099 3400 0000 2500 8203

Clayton Group  
9501 Highway 92 East  
Tampa, Florida 33610

WARNING LETTER

OWL-HW-C/E-00-0008

Attention: Alvo M. Oddis, President

Orange County - HW  
Custom Fab  
FLD984179085 & FLR000022939

Dear Mr. Oddis:

A hazardous waste compliance inspection was conducted at your facility on March 27, 2000. This inspection was conducted under the authority of Section 403.091, Florida Statutes, and Chapter 403, Part IV, Florida Statutes. The inspection is designed to ascertain the compliance status of your facility with 40 CFR 260-268, adopted in Florida Administrative Code Chapter 62-730.

During the inspection, possible violations of rules regarding hazardous waste management were noted. These possible violations are set forth in the "Summary of Potential Non-compliance Items" section of the attached inspection report.

You are advised that any activity at your facility that may be contributing to violations of the above described statutes and rules should be ceased immediately. Operation of a facility in violation of State Statutes or rules may result in liability for damages and restoration, and the judicial imposition of civil penalties pursuant to Section 403.727, Florida Statutes, and 40 CFR 279 adopted in Florida Administrative Code Chapter 62-710.

WARNING LETTER  
Custom Fab  
OWL-HW-C/E-00-0008

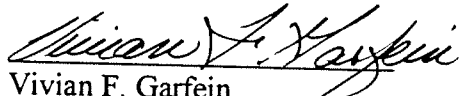
PLEASE BE ADVISED that this Warning Letter is part of an agency investigation preliminary to agency action in accordance with Section 120.57(4), Florida Statutes. The purpose of this letter is to advise you of possible violations and to set up a meeting to discuss possible resolutions to any violations and/or civil penalties for which you may be responsible.


This matter may be resolved through the entry of a Consent Order, which includes a compliance schedule and an appropriate penalty. Under the Department's agreement with the United States Environmental Protection Agency (EPA), a formal administrative complaint or "Notice of Violation" (NOV) must be issued within 180 days of the date of the attached inspection report. In order to avoid the issuance of a NOV, a Consent Order must be entered well in advance of that date.

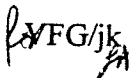
Please be aware that in all cases involving Class I Violations of RCRA hazardous waste rules, the Department is required to seek civil penalties in accordance with the EPA RCRA Civil Penalty Policy, dated October 26, 1990. A copy of this policy is available upon request.

Please contact Janine Kraemer, Hazardous Waste Section, at (407) 893-3323 within ten (10) days of receipt of this letter to schedule an informal conference concerning resolution of this matter.

Sincerely,

  
Vivian F. Garfein  
Director of District Management

  
Date



Enclosures: RCRA Inspection Report

cc: Chris Comins, President, Custom Fab  
FDEP, Tallahassee  
EPA Region IV



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# Department of Environmental Protection

Central District  
3319 Maguire Boulevard, Suite 232  
Orlando, Florida 32803-3767

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## HAZARDOUS WASTE INSPECTION REPORT

1. INSPECTION TYPE: ☐ Routine ☒ Complaint ☐ Follow-Up ☐ Permitting ☐ Pre-Arranged

FACILITY NAME Custom Fab

EPA ID # FLD984179085 (121 Thorpe RD.)  
FLR000022939 (110 5th St.)

STREET ADDRESS 121 Thorpe Road, Orlando, Florida 32824 (FLD984179085)

MAILING ADDRESS 109 Fifth Street, Orlando, Florida 32824

COUNTY Orange PHONE (407) 859-3954 DATE 3/27/2000 TIME 13:40

NOTIFIED AS: ☐ N/A

### CURRENT STATUS:

- ☐ Non Handler  
☐ CESQG (<100 kg/mo.)  
☒ SQG (100-1000 kg/mo.)  
☐ Generator (>1000 kg/mo.)  
☐ Transporter  
☐ Transfer Facility  
☐ Interim Status TSD Facility  
☐ TSD Facility  
Unit Type(s):  
☐ Exempt Treatment Facility  
☐ Used Oil:

- ☐ Non Handler  
☐ CESQG (<100 kg/mo.)  
☐ SQG (100-1000 kg/mo.)  
☒ Generator (>1000 kg/mo.)  
☐ Transporter  
☐ Transfer Facility  
☐ Interim Status TSD Facility  
☐ TSD Facility  
Unit Type(s):  
☐ Exempt Treatment Facility  
☐ Used Oil:

### 2. APPLICABLE REGULATIONS:

- |  |   |   |   |
|--|---|---|---|
| <input checked="" type="checkbox"/> 40 CFR 261.5 | <input checked="" type="checkbox"/> 40 CFR 262  | <input type="checkbox"/> 40 CFR 263             | <input type="checkbox"/> 40 CFR 264             |
| <input checked="" type="checkbox"/> 40 CFR 265   | <input type="checkbox"/> 40 CFR 266             | <input checked="" type="checkbox"/> 40 CFR 268  | <input type="checkbox"/> 40 CFR 273             |
| <input checked="" type="checkbox"/> 40 CFR 279   | <input checked="" type="checkbox"/> 62-710, FAC | <input checked="" type="checkbox"/> 62-737, FAC | <input checked="" type="checkbox"/> 62-730, FAC |

### 3. RESPONSIBLE OFFICIAL(s):

Christopher M. Comins, President, Custom Fab

### 4. INSPECTION PARTICIPANTS:

Janine Kraemer, FDEP

Christopher M. Comins, Custom Fab

5. LATITUDE/LONGITUDE 28°25'40.08"/81°22'31.10" (121 Thorpe Road)

6. SIC Code: 3432-Plumbing Fixtures and Fittings

7. TYPE OF OWNERSHIP: Private Federal State County Municipal

8. Introduction

On March 27, 2000, Janine Kraemer, of the Florida Department of Environmental Protection (FDEP), inspected Custom Fab for compliance with state and federal hazardous waste regulations. The inspection was initiated from a complaint received June 6, 1999. Custom Fab is composed of five sites in Orlando, Orange County, Florida, labeled Yard 1 through 5. Yard 1 is located at 121 Thorpe Road and as of April 10, 2000, Orange County Property Appraiser indicates ownership as The Pineridge Group, Inc. Yard 2 is located at 120 Thorpe Road, owned by Dennis Hansen and leased by Mr. Comins. Yard 3 is located at 110 5<sup>th</sup> Street and as of April 10, 2000, Orange County Property Appraiser indicates ownership as Clayton Group, Inc. Yard 4 is located at 109 5<sup>th</sup> Street and as of April 10, 2000, Orange County Property Appraiser indicates ownership as Clayton Group, Inc. Yard 5 is located at 112 5<sup>th</sup> Street is leased by Mr. Comins and as of April 10, 2000, Orange County Property Appraiser indicates ownership as Clayton Group, Inc. leased by Mr. Comins. The company has been in operation for 19 years.

9. Inspection History

No previous inspections have been conducted at this facility.

10. Process Description

The business coats, assembles and stores piping for water and wastewater treatment plants. Five yards make up the business with a variety of processes.

Yard 1 takes bare ductile iron pipe and prepares it for use in water or wastewater treatment plants. Bare pipe is threaded using a threading machine that uses soluble oils (animal oil). Flanges are attached to the threaded area of the pipe. Tar or primer is applied to the product depending on the customer. Occasionally, pipe comes into the facility already coated. Coating must be removed in order for pipe to be threaded, this is done using toluene. The same processing can then occur on the stripped pipe that is conducted on the bare pipe.

Yard 2 stores iron piping and line fittings. This yard stores raw material and finished product used and produced from Yard 1.

Yard 3 is used for carbon, stainless and aluminum piping fabrication. It is also used for special projects and pipe welding. Four shops exist within Yard 3.

1. The line fitting shop is used to treat bare line fittings. Initially, line fittings are brought to the facility slightly rusty. A product called Black Beauty, a by-product of the roofing industry, is used to remove rust from the fittings. After the rust is removed, the fitting must be coated internally using Protecto 401 Epoxy. The line fittings are covered in tar or primer, again depending upon the customer. Finally, the fittings are stenciled, labeled, then stored on Yard 5.
2. The forklift shop maintains and repairs forklifts from the 5 yards. Additionally, some vehicles and equipment from the 5 yards are repaired in this shop.
3. The pipe support shop is used to cut and thread stainless steel, aluminum and carbon pipe. Several bays compose this shop.
4. In the welding shop pipes are welded and checked for leaks. Additionally, special projects are assembled in this area.

Yard 4 houses the Main office. Additionally, several trailers contain stainless steel pipe and fittings, tools, old business records, and Mr. Comins' personal property.

Yard 5 stores pipes and line fittings storage of raw material and finished product. This yard stores the raw material and finished product used in Yard 3.

11. Narrative

**Inspection**

Each yard was inspected in order. Yards 1 and 3 were the only two sites creating hazardous waste. Both of these yards have an EPA identification number assigned to it, but all waste is being manifested using the identification number assigned to 121 Thorpe Road (Yard 1).

Yard 1 applies a coating to pipe as well as threads pipe. During the coating process, either tar or primer is applied to the pipe. Tar is applied using rags and allowed to drip dry onto plywood. Primer is applied using spray guns and allowed to air dry. Overspray is also collected on plywood. Spray guns are cleaned with toluene over a process vat. A curb surrounds the application area and the two toluene containers (virgin tank and process vat). Coated pipes that must be stripped are placed on a grate over the process vat. The coating is stripped using brushes dipped into the process vat. The excess toluene is collected in the vat and reused until no longer viable.

Yard 3, which is composed of four shops, creates a variety of waste depending on the shop. The line fitting shop applies tar using rags or epoxy and primer using paint guns.

MEK is used to clean the spray guns. The forklift repair shop produces used oil, oil filters and batteries. Additionally, this shop also has a Safety Kleen parts washer. The pipe support shop produces metal shavings containing cutting oil.

At the back of the property stainless steel cleaning was taking place on a concrete pad. High pressure steam cleaning using a metal conditioner is used to shine stainless steel pipe.

#### **Waste Management Practices**

The process toluene vat used on Yard 1 is an uncovered tank surrounded by an open air structure. Sludge from the tank is removed once a year and placed into 55-gallon drums. Drip boards used to collect excess tar or primer are disposed of in the dumpster every 6 months. Rags used to apply tar are also disposed of in the solid waste dumpster [40 CFR 262.11].

MEK, used to clean the spray guns on Yard 3, is distilled and recycled. Recycled MEK is used to clean spray guns or thin coatings. Two 55-gallon drums were supposed to be recycled MEK and two 55-gallon drums were supposed to be waste MEK. None of the drums were labeled or dated [262.34(a)(3), 262.34(a)(2)]. Two of the drums were open [40 CFR 265.173(a)]. Sludge from the distiller according to Mr. Comins is collected in a 55-gallon drum but no drums existed for the sludge (a hazardous waste shipment had occurred recently). Epoxy products not completely used in the process are allowed to harden and disposed of in the dumpster marked "empty paint cans". This dumpster is also used to dispose of empty or dried paint cans.

The run off from the stainless steel cleaning process was going off the concrete pad and onto to the ground [40 CFR 262.11]. It eventually went onto the adjacent property.

Two unlabeled 55-gallon drums [40 CFR 279.22(c)(1)] were being used for waste oil collection. No container was available for the oil filters [62-710.850].

Shavings from the pipe support shop that contained cutting oils were disposed in the large roll off dumpster containing solid waste [40 CFR 262.11].

#### **Record Review**

Emergency contingency plans exist internally but no copies have been sent to the local authorities [40 CFR 265.37].

Manifests were only available for 1999 and 2000 [40 CFR 262.40(a)]. No manifests were available for the parts washer [40 CFR 262.40(a)]. Land Ban Restrictions were not

available for manifest 11400, dated 1/14/00, or 46168, dated 2/16/99 [40 CFR 268.7(a)(8)].

No documentation could be provided to prove proper disposal of used oil [40 CFR 261.6(a)(4) or oil filters [62-710.850].

Training records were not available for Christopher Comins or James Morton [40 CFR 265.16(a)(1)]. Mr. Comins is the president of the company and the emergency contact, and Mr. Morton had signed manifests for hazardous waste disposal.

No weekly inspection logs exist for the hazardous waste drums located in Yard 3. [40CFR 265.174, 62-730.160(6) F.A.C.]

Quantities on manifests indicate Custom Fab was a large quantity generator for 1999 and 2000. No biennial reports have been submitted to the Department. [40 CFR 262.41]

### **Recommendations**

A log should be developed to document distillation of MEK. The log would provide documentation of the reuse of MEK and track waste generation rates so the facility will know it's generator status.

Waste should be manifested according to which site the waste was generated from; this may reduce the generator status from large quantity to small quantity. Specifically, Yard 1 and 3 have their own specific EPA identification numbers

Battery receipts need to document returned cores. Credit to an account without documenting the reason for the credit is not sufficient.

Hardened epoxy and empty or dried paint cans can be disposed with solid waste.

A commercial laundry service can be used for rags to eliminate disposal in the dumpster.

## **12. Summary of Potential Noncompliances Items and Corrective Actions**

### **a.) Violation: 40 CFR 261.6(a)(4) – Used oil recycling exemption**

“Used oil that is recycled and is also a hazardous waste solely because it exhibits a hazardous characteristic is not subject to the requirements of Part 260-268 of this chapter, but is regulated under Part 279 of this chapter. Specifically, Custom Fab could not provide documentation indicating that used oil collected was sent off site for recycling. Used oil generated at a facility that is NOT recycled is subject to regulation as hazardous

waste under Parts 260-268 of this chapter if it exhibits a characteristic of hazardous waste.

**Corrective Action:** Custom Fab must immediately obtain copies of all used oil disposal receipts for the last three calendar years and provide copies of these records to the Department within 30 days of receipt of this Warning Letter. Used oil that is not recycled is subject to regulation as a hazardous waste and Custom Fab must provide the results of a hazardous waste determination of all used oil waste streams separately.

b.) **Violation: 40 CFR 262.11 - Waste determination**

Custom Fab failed to determine whether a solid waste, as defined in 40 CFR 261.2, and generated at the facility, was a hazardous waste. Specifically, Custom Fab failed to perform a waste determination on the following:

1. Metal shavings from pipe threading coated with cutting oil
2. Rags used in applying coating
3. Etch-Tec metal conditioner used to shine stainless steel

**Corrective Action:**

Within 30 days of receipt of this Warning Letter, Custom Fab shall, if necessary obtain the services of one or more competent, reputable environmental consulting firms and/or laboratories, with a Department approved Comprehensive Quality Assurance Plan, to sample and analyze the wastes listed above. These results shall be provided to the Department in writing and proper management of these waste streams included in a written waste management plan.

c.) **Violation: 40 CFR 262.34(a)(2) - Accumulation time, dating**

"The date upon which each period of accumulation begins must be clearly marked and visible for inspection on each container." Specifically, Custom Fab failed to mark four hazardous waste storage containers with the accumulation start date located on Yard 3, line fitting shop.

**Corrective Action:**

Custom Fab must immediately mark the accumulation start date on all containers of hazardous waste. In addition, within 30 days of receipt of this Warning Letter, Custom Fab shall submit to the Department written notification that all employees involved with hazardous waste management and/or practices have been informed that all containers of hazardous waste shall be marked with the date of accumulation.



d.) **Violation: 40 CFR 262.34(a)(3) - Unlabeled storage container**

"While being accumulated on site each container and tank must be labeled or marked clearly with the words *Hazardous Waste*." Specifically, Custom Fab failed to label four hazardous waste storage containers with the words "Hazardous Waste" located on Yard 3, line fitting shop.

**Corrective Action:**

Custom Fab must immediately label all hazardous waste storage containers with the words "Hazardous Waste". In addition, within 30 days of receipt of this Warning Letter, Custom Fab shall submit to the Department written notification that all employees involved with hazardous waste management and/or practices have been instructed in proper hazardous waste storage container management.

e.) **Violation: 40 CFR 262.20 – Record Keeping**

A generator must keep a copy of each signed hazardous waste manifest from the designated treatment, storage or disposal facility for minimum of three years from the date the waste was accepted by the initial transporter. Specifically, Custom Fab could not produce original manifests for hazardous waste shipments.

**Corrective Action:**

Custom Fab shall obtain a completed, signed manifest from the designated facility(ies) for each deficient manifest on file for the last three years. In addition, within 30 days of receipt of this Warning Letter, Custom Fab shall submit to the Department a written manifest management plan addressing recordkeeping and the retention of original manifests

f.) **Violations: 40 CFR 262.41 – Biennial Reports**

"A generator who ships any hazardous waste off-site to a treatment, storage or disposal facility within the U.S. must prepare and submit a single copy of a Biennial Report to the Regional Administrator by March 1 of each even numbered year."

**Corrective Action:**

Custom Fab shall submit EPA Form 8700-13A for each appropriate year. In addition, within 30 days of receipt of Warning Letter, Custom Fab shall submit to the Department copies of those reports.

g.) **Violation: 40 CFR 265.16(a)(1) - Personnel training**

"Facility personnel must successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with the requirements of this part." Specifically, Custom Fab failed to provide facility personnel training in hazardous waste management procedures.

**Corrective Action:**

Custom Fab shall immediately develop a personnel training plan and schedule training in hazardous waste management for the appropriate facility employees. Training shall be documented in accordance with 40 CFR 265.16. In addition, within 30 days of receipt of this Warning Letter, Custom Fab shall submit to the Department a written facility personnel training plan with corresponding training schedules. When training is complete, Custom Fab shall provide written documentation to the Department.

h.) **Violation: 40 CFR 265.37 - Arrangements with local authorities**

"The owner or operator must attempt to make arrangements, as appropriate to the type of waste, with police, fire department(s), emergency response teams, hospitals, etc., with documentation of refusals, if any." Specifically, Custom Fab failed to make arrangements with any local authorities and/or document responses or refusals.

**Corrective Action:**

Custom Fab shall immediately attempt to make arrangements with local authorities as listed in 40 CFR 265.37. In addition, within 30 days of receipt of this Warning Letter, Custom Fab shall submit to the Department written documentation that local arrangements have been attempted as well as any refusals.

i.) **Violation: 40 CFR 265.173(a) - Open container**

"A container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste." Specifically, Custom Fab failed to keep two hazardous waste containers closed during storage.

**Corrective Action:**

Custom Fab must ensure that all containers of hazardous waste remain closed during storage except when adding or removing waste. In addition, within 30 days of receipt of this Warning Letter, Custom Fab shall submit to the Department written notification that all employees involved with hazardous waste management and/or practices have been informed that all containers of hazardous waste shall be closed during storage except when adding or removing waste.

j.) **Violation: 40 CFR 265.174, 62-730.160(6) F.A.C. - General inspections**

"Generators of hazardous waste who accumulate hazardous waste on-site under 40 CFR 262.34, shall maintain written documentation of the inspections required under 40 CFR Part 265 and 62-730.160(6) F.A.C." "The owner or operator must inspect areas where containers are stored, at least weekly, looking for leaks and for deterioration caused by corrosion or other factors." Specifically, Custom Fab failed to perform facility inspections according to a written schedule and to maintain written inspection logs.

**Corrective Action:**

Custom Fab shall immediately develop a written facility inspection schedule and corresponding inspection log(s). In addition, within 30 days of receipt of this Warning Letter, Custom Fab shall submit to the Department a written facility inspection plan including the schedules and logs mentioned above, as well as completed logs, if any.

k.) **Violation: 40 CFR 268.7(a)(8) - LDR Notification**

"Generators must retain on-site a copy of all notices, certifications, demonstrations, waste analysis data, and other documentation produced pursuant to this section for at least five years from the date that the waste that is the subject of such documentation was last sent to on-site or off-site treatment, storage, or disposal." Specifically, Custom Fab failed to retain copies of LDR notification documentation.

**Corrective Action:**

Custom Fab shall obtain copies of original LDR notifications from the appropriate treatment, storage, or disposal facility. In addition, within 30 days of receipt of Warning Letter, Custom Fab shall submit to the Department a written manifest management plan addressing recordkeeping and the retention of original manifests with attached LDR notification forms.

l.) **Violation: 40 CFR 279.22(c)(1) - Used oil container labeling**

"Containers and above ground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words *Used Oil*." Specifically, Custom Fab failed to mark used oil storage drums with the words *Used Oil*.

**Corrective Action:**

Custom Fab shall immediately label their used oil collection container(s) with the words *Used Oil*. In addition, within 30 days of receipt of this Warning Letter, Custom Fab shall submit to the Department written notification that all employees involved with used oil management and/or practices have been instructed in proper used oil container management.

m.) **Violation: 62-710.850 – Used oil filter management**

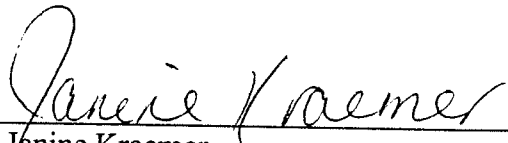
"No person who removes or manages used oil filters shall dispose of such filters in a landfill or commingle with other solid waste for disposal in a landfill." Specifically, Custom Fab could not provide documentation indicating that used oil filters were disposed of properly.

**Corrective Action:** Custom Fab must immediately obtain copies of all used oil filter disposal receipts for the last three calendar years and provide copies of these records to the Department within 30 days of receipt of this Warning Letter. Used oil filters that are not recycled are subject to regulation as hazardous waste.

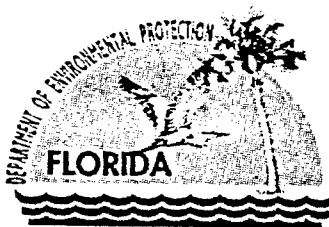
13. Conclusion

Custom Fab is a Large Quantity Generator of hazardous waste and was in not compliance at the time of the inspection.

Report Prepared By:

  
Janine Kraemer  
Environmental Specialist

  
RTS/jk



Jeb Bush  
Governor

# Department of Environmental Protection

Central District  
3319 Maguire Boulevard, Suite 232  
Orlando, Florida 32803-3767

David B. Scruhs  
Secretary

September 26, 2000

CERTIFIED MAIL

7099 3400 0000 2500 8982

Custom Fab  
109 Fifth Street  
Orlando, FL 32824

OCD-HW-C/E-00-0325

Attention: Chris Comins, President

SUBJECT: Proposed Settlement by Short Form Consent Order in Case of Custom Fab  
OGC File No.: 1155

Dear Mr. Comins:

The purpose of this letter is to complete the resolution of the matter previously identified by the Department in the Warning Letter dated April 24, 2000, a copy of which is attached. The corrective actions required to bring your facility into compliance have been performed. In order to resolve the matter identified in the attached Warning Letter, the Department has calculated civil penalties in the amount of \$10,400.00 along with \$100.00 to reimburse the Department costs, for a total of \$10,500.00. In lieu of making monetary payment of the civil penalties, the Department has determined that \$8320.00 of the civil penalty may be offset through the implementation of a Pollution Prevention Project (P2 Project). Payment of the remaining civil penalties, \$2080.00, and the \$100.00 Department costs, for a total of \$2180.00 shall be made within 30 days of signing this letter. The payment must be made payable to the Department of Environmental Protection by cashier's check or money order and shall include the OGC File Number assigned above and the notation "Ecosystems Management and Restoration Trust Fund." Payment shall be sent to the Department of Environmental Protection, 3319 Maguire Boulevard, Suite 232, Orlando, Florida 32803-3767.

Upon signing this letter, Custom Fab shall implement the approved P2 Project, which consists of the upgrade of the current sand blast system. A copy of the approved P2 Project, which has an estimated cost of \$60,000.00, is incorporated as Exhibit A. Within 120 days of signing this letter, Respondent shall provide the Department with written notice that the P2 Project has been completed, including copies of all receipts. Your failure to implement the P2 Project as approved or to complete the P2 Project and provide receipts to the Department within 120 days of signing this letter will cause the P2 Project option to be forfeited and the balance of the civil penalty, \$8320.00, shall be due within ten days of default.

Your signing this letter constitutes your acceptance of the Department's offer to resolve this matter on these terms. If you elect to sign this letter, please return it to the Department at the address indicated above. The Department will then countersign the letter and file it with the Clerk of the Department. When the signed letter is filed with the Clerk, the letter shall constitute final agency action of the Department which shall be enforceable pursuant to Section 120.69 and 403.121, Florida Statutes.

If you do not sign and return this letter to the Department at the District address within 20 days of receiving it, the Department will assume that you are not interested in settling this matter on the above described terms, and will proceed accordingly. None of your rights or substantial interests are determined by this letter unless you sign it and it is filed with the Department Clerk.

Sincerely,

  
Vivian F. Garfein

Director of District Management

September 26, 2000  
Date



Christopher M Comins on behalf of Custom Fab  
Please Print Name

**HEREBY ACCEPT THE TERMS OF THE SETTLEMENT OFFER IDENTIFIED ABOVE.**

For: Custom Fab

By Christopher M Comins  
Signature

Management

For the Department:

Vivian F. Garfein  
Director of District

Entered into this 17th day of October 2000, in Orlando, Florida.

FILING AND ACKNOWLEDGMENT FILED, on this date, pursuant to §120.52 Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.

J. Salonde  
CLERK

10/17/2000  
Date

**EXHIBIT I**  
**FLORIDA DEP HAZARDOUS WASTE COMPLIANCE & ENFORCEMENT**  
**PENALTY REVIEW**

**FACILITY:** Custom Fab  
**LOCATION:** 109 5<sup>th</sup> Street, Orlando, Florida 32824  
**EPA ID:** FLD984179085  
**INSPECTION DATE:** March 27, 2000  
**DISTRICT:** Central

**PENALTIES:** The following penalties were calculated using the Department's April 18, 1995, "Guidelines for Characterizing RCRA Violations" and the USEPA October 1990 "RCRA Civil Penalty Policy" and are in accordance with Department policy. (Note: Used Oil violations are calculated using the \$ 10,000 per day violation Settlement Guidelines for Civil Penalties).

Assessments for each violation are determined on separate work sheets and summarized below.

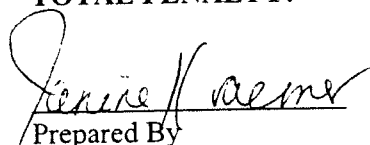
**SUMMARY OF PROPOSED SETTLEMENT OF LIABILITIES:**

<u>REGULATION VIOLATED</u> <u>CATEGORY</u>	<u>AMOUNT</u>	<u>E/B</u>	<u>MULTI-DAY</u>	<u>MATRIX</u>
40 CFR 261.6(a)(4)	\$ 499			MINOR/MINOR
40 CFR 262.11	\$1000			MINOR/MODERATE
40 CFR 262.34(a)(2)	\$2250			MINOR/MAJOR
40 CFR 262.34(a)(3)	\$2250			MINOR/MAJOR
40 CFR 262.20	\$2250		300	MINOR/MAJOR
40 CFR 262.41	\$2250			MINOR/MAJOR
40 CFR 265.16(a)(1)	\$8500			MODERATE/MAJOR
40 CFR 265.37	\$2250			MINOR/MAJOR
40 CFR 265.173(a)	\$2250			MINOR/MAJOR
40 CFR 265.174,	\$ 300			MINOR/MINOR
62-730.160(6) F.A.C.				
40 CFR 268.7(a)(8)	\$ 300			MINOR/MINOR
40 CFR 279.22(c)(1)	\$ 300			MINOR/MINOR
62-710.850 F.A.C.	\$ 300			MINOR/MINOR

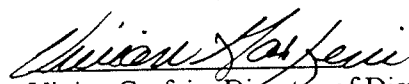
**TOTAL GRAVITY-BASED PENALTIES:** \$24,699

**TOTAL MULTI-DAY PENALTY:** \$ 300

**TOTAL PENALTY:** \$24,999

  
 Prepared By

Janine Kraemer, Environmental Specialist

  
 Vivian Garfein, Director of District Management

4/19/2000  
 Date

4/24/2001  
 Date

## EXHIBIT II

### PENALTY COMPUTATION WORKSHEET

Company Name: Custom Fab

Regulation Violated: 40 CFR 261.6(a)(4)

**VIOLATION:** "Used oil that is recycled and is also a hazardous waste solely because it exhibits a hazardous characteristic is not subject to the requirements of Part 260-268 of this chapter, but is regulated under Part 279 of this chapter. Specifically, Custom Fab could not provide documentation indicating that used oil collected was sent off site for recycling. Used oil generated at the facility that is NOT recycled is subject to regulation as hazardous waste under Parts 260-268 of this chapter.

#### PENALTY JUSTIFICATION

Potential for Harm and Extent of Deviation were determined using the Department's "Guidelines for Characterizing RCRA Violations", and are in accordance with Department policy.

##### 1. Potential for Harm:

Based on the Department's Guidelines, a **Minor potential for harm** is warranted for no used oil receipts.

##### 2. Extent of Deviation:

Based on the Department's Guidelines, the **extent of deviation is Minor**.

**Note:** The Potential for Harm and Extent of Deviation from the regulations are determined for use in evaluating penalty amounts using EPA's Penalty Matrices.



**VIOLATION**  
40 CFR 261.6(a)(4)

**Seriousness of Violation Penalty**

- |                         |                                    |
|-------------------------|------------------------------------|
| 1. Potential for Harm:  | <u>Minor</u>                       |
| 2. Extent of Deviation: | <u>Minor</u>                       |
| 3. Matrix Cell Range:   | <u>\$100 - \$499</u>               |
| Penalty Amount Chosen:  | <u>\$499</u><br>High Range of Cell |
| 4. Assessment:          | <u><u>\$499</u></u>                |

**Penalty Adjustments**

	<u>Percentage Change*</u>	<u>Dollar Amount</u>
a. Good faith efforts to comply/lack of good faith:	_____	_____
b. Degree of willfulness and/ or negligence:	_____	_____
c. History of Noncompliance:	_____	_____
d. Other unique factors:	_____	_____
e. Justification for adjustments:	_____	_____

\* Percentage adjustments are applied to the dollar amount assessed (Line 4).

- |   |                     |
|---|---------------------|
| 5. Adjusted Per-day Penalty (Line 4, ± Adjustments (Lines a-e):           | <u>\$499</u>        |
| 6. Multi-day Penalty Amount Chosen From Multi-day Matrix Cell:            | _____               |
| 7. Number of Days of Violation Minus One:                                 | _____               |
| 8. Multi-day Penalty (Line 6 x Line 7, Part II):                          | _____               |
| 9. Economic Benefit of Noncompliance:                                     | _____               |
| 10. Total Penalty (Lines 5 + 8 + 9):                                      | <u>\$499</u>        |
| 11. Ability to Pay Adjustment: Justification for Adjustment:              | _____               |
| 12. Total Penalty Amount (must not exceed \$25,000 per day of violation): | <u><u>\$499</u></u> |

## EXHIBIT II

### PENALTY COMPUTATION WORKSHEET

Company Name: Custom Fab

Regulation Violated: 40 CFR 262.11

**VIOLATION:** Custom Fab staff failed to determine whether solid wastes, as defined in 40 CFR 261.2, generated at the facility were a hazardous waste. Specifically, Custom Fab failed to determine whether Etch-Tec metal conditioner, shop rags, and metal shavings from pipe threading were hazardous waste.

#### PENALTY JUSTIFICATION

Potential for Harm and Extent of Deviation were determined using the Department's "Guidelines for Characterizing RCRA Violations", and are in accordance with Department policy.

##### 1. Potential for Harm:

Nature of the waste: Category 2 hazardous waste, therefore, a score of 4 is warranted.

Volume of waste: The volume of waste is less than 6 drums, therefore, a score of 2 is warranted.

Location of receptors: There was discharge, therefore, a score of 4 is warranted.

Total rank for potential for harm is 10.

Based on the Department's Guidelines, a **Minor potential for harm** is warranted for waste determination needed.

##### 2. Extent of Deviation:

Percentage of the facility's hazardous waste stream which a waste determination has not been conducted is between 25% and 75%.

Based on the Department's Guidelines, the **extent of deviation is Moderate**.

**Note:** The Potential for Harm and Extent of Deviation from the regulations are determined for use in evaluating penalty amounts using EPA's Penalty Matrices.

**VIOLATION**  
40 CFR 262.11

**Seriousness of Violation Penalty**

- |                         |                                    |
|-------------------------|------------------------------------|
| 1. Potential for Harm:  | <u>Minor</u>                       |
| 2. Extent of Deviation: | <u>Moderate</u>                    |
| 3. Matrix Cell Range:   | <u>\$500 - \$1499</u>              |
| Penalty Amount Chosen:  | <u>\$1000</u><br>Mid Range of Cell |
| 4. Assessment:          | <u>\$1000</u>                      |

**Penalty Adjustments**

	<u>Percentage Change*</u>	<u>Dollar Amount</u>
a. Good faith efforts to comply/lack of good faith:	_____	_____
b. Degree of willfulness and/ or negligence:	_____	_____
c. History of Noncompliance:	_____	_____
d. Other unique factors:	_____	_____
e. Justification for adjustments:	_____	_____

\* Percentage adjustments are applied to the dollar amount assessed (Line 4).

- |   |                |
|---|----------------|
| 5. Adjusted Per-day Penalty (Line 4, ± Adjustments (Lines a-e):           | <u>\$1000</u>  |
| 6. Multi-day Penalty Amount Chosen From Multi-day Matrix Cell:            | _____          |
| 7. Number of Days of Violation Minus One:                                 | _____          |
| 8. Multi-day Penalty (Line 6 x Line 7, Part II):                          | _____          |
| 9. Economic Benefit of Noncompliance:                                     | _____          |
| 10. Total Penalty (Lines 5 + 8 + 9):                                      | <u>\$1000</u>  |
| 11. Ability to Pay Adjustment: Justification for Adjustment:              | _____          |
| 12. Total Penalty Amount (must not exceed \$25,000 per day of violation): | <u>\$ 1000</u> |

## EXHIBIT II

### PENALTY COMPUTATION WORKSHEET

Company Name: Custom Fab

Regulation Violated: 40 CFR 262.34(a)(2)

**VIOLATION:** "The date upon which each period of accumulation begins must be clearly marked and visible for inspection on each container." Specifically, Custom Fab failed to mark four hazardous waste storage containers with the accumulation start date.

### PENALTY JUSTIFICATION

Potential for Harm and Extent of Deviation were determined using the Department's "Guidelines for Characterizing RCRA Violations", and are in accordance with Department policy.

#### 1. Potential for Harm:

Nature of the waste: Category 2 hazardous waste, therefore, a score of 4 is warranted.

Volume of waste: The volume of waste is less than 6 drums, therefore, a score of 2 is warranted.

Location of receptors: There was a potential for discharge, therefore, a score of 4 is warranted.

Total rank for potential for harm is 10.

Based on the Department's Guidelines, a **Minor potential for harm** is warranted for 4 undated drums.

#### 2. Extent of Deviation:

Based on the Department's Guidelines, the **extent of deviation is Major**.

**Note:** The Potential for Harm and Extent of Deviation from the regulations are determined for use in evaluating penalty amounts using EPA's Penalty Matrices.

**VIOLATION**  
40 CFR 262.34(a)(2)

**Seriousness of Violation Penalty**

- |                         |                                    |
|-------------------------|------------------------------------|
| 1. Potential for Harm:  | <u>Minor</u>                       |
| 2. Extent of Deviation: | <u>Major</u>                       |
| 3. Matrix Cell Range:   | <u>\$1500 - \$2999</u>             |
| Penalty Amount Chosen:  | <u>\$2250</u><br>Mid Range of Cell |
| 4. Assessment:          | <u>\$2250</u>                      |

**Penalty Adjustments**

	<u>Percentage Change*</u>	<u>Dollar Amount</u>
a. Good faith efforts to comply/lack of good faith:	_____	_____
b. Degree of willfulness and/ or negligence:	_____	_____
c. History of Noncompliance:	_____	_____
d. Other unique factors:	_____	_____
e. Justification for adjustments:	_____	_____

\* Percentage adjustments are applied to the dollar amount assessed (Line 4).

- |   |               |
|---|---------------|
| 5. Adjusted Per-day Penalty (Line 4, ± Adjustments (Lines a-e):           | <u>\$2250</u> |
| 6. Multi-day Penalty Amount Chosen From Multi-day Matrix Cell:            | _____         |
| 7. Number of Days of Violation Minus One:                                 | _____         |
| 8. Multi-day Penalty (Line 6 x Line 7, Part II):                          | _____         |
| 9. Economic Benefit of Noncompliance:                                     | _____         |
| 10. Total Penalty (Lines 5 + 8 + 9):                                      | <u>\$2250</u> |
| 11. Ability to Pay Adjustment: Justification for Adjustment:              | _____         |
| 12. Total Penalty Amount (must not exceed \$25,000 per day of violation): | <u>\$2250</u> |

## EXHIBIT II

### PENALTY COMPUTATION WORKSHEET

Company Name: Custom Fab

Regulation Violated: 40 CFR 262.34(a)(3)

VIOLATION: "While being accumulated on site each container and tank must be labeled or marked clearly with the words *Hazardous Waste*." Specifically, Custom Fab failed to label four hazardous waste storage containers with the words "Hazardous Waste".

#### PENALTY JUSTIFICATION

Potential for Harm and Extent of Deviation were determined using the Department's "Guidelines for Characterizing RCRA Violations", and are in accordance with Department policy.

##### 1. Potential for Harm:

Nature of the waste: Category 2 hazardous waste, therefore, a score of 4 is warranted.

Volume of waste: The volume of waste is less than 6 drums, therefore, a score of 2 is warranted.

Location of receptors: There was a potential for discharge, therefore, a score of 4 is warranted.

Total rank for potential for harm is 10.

Based on the Department's Guidelines, a **Minor potential for harm** is warranted for 4 unlabeled drums.

##### 2. Extent of Deviation:

Based on the Department's Guidelines, the **extent of deviation is Major**.

**Note:** The Potential for Harm and Extent of Deviation from the regulations are determined for use in evaluating penalty amounts using EPA's Penalty Matrices.

**VIOLATION**  
40 CFR 262.34(a)(3)

**Seriousness of Violation Penalty**

- |                         |                        |
|-------------------------|------------------------|
| 1. Potential for Harm:  | <u>Minor</u>           |
| 2. Extent of Deviation: | <u>Major</u>           |
| 3. Matrix Cell Range:   | <u>\$1500 - \$4999</u> |
| Penalty Amount Chosen:  | <u>\$2250</u>          |
|                         | Mid Range of Cell      |
| 4. Assessment:          | <u>\$2250</u>          |

**Penalty Adjustments**

	<u>Percentage Change*</u>	<u>Dollar Amount</u>
a. Good faith efforts to comply/lack of good faith:	_____	_____
b. Degree of willfulness and/ or negligence:	_____	_____
c. History of Noncompliance:	_____	_____
d. Other unique factors:	_____	_____
e. Justification for adjustments:	_____	_____

\* Percentage adjustments are applied to the dollar amount assessed (Line 4).

- |   |               |
|---|---------------|
| 5. Adjusted Per-day Penalty (Line 4, ± Adjustments (Lines a-e):           | <u>\$2550</u> |
| 6. Multi-day Penalty Amount Chosen From Multi-day Matrix Cell:            | _____         |
| 7. Number of Days of Violation Minus One:                                 | _____         |
| 8. Multi-day Penalty (Line 6 x Line 7, Part II):                          | _____         |
| 9. Economic Benefit of Noncompliance:                                     | _____         |
| 10. Total Penalty (Lines 5 + 8 + 9):                                      | <u>\$2250</u> |
| 11. Ability to Pay Adjustment: Justification for Adjustment:              | _____         |
| 12. Total Penalty Amount (must not exceed \$25,000 per day of violation): | <u>\$2250</u> |

## EXHIBIT II

### PENALTY COMPUTATION WORKSHEET

Company Name: Custom Fab

Regulation Violated: 40 CFR 262.20

**VIOLATION:** A generator must keep a copy of each signed hazardous waste manifest from the designated treatment, storage or disposal facility for minimum of three years from the date the waste was accepted by the initial transporter. Specifically, Custom Fab could not produce manifests for 1997 or 1998.

#### PENALTY JUSTIFICATION

Potential for Harm and Extent of Deviation were determined using the Department's "Guidelines for Characterizing RCRA Violations", and are in accordance with Department policy.

##### 1. Potential for Harm:

Nature of the waste: Category 2 hazardous waste, therefore, a score of 4 is warranted.

Volume of waste: The volume of waste is less than 6 drums, therefore, a score of 2 is warranted.

Location of receptors: There was a potential for discharge, therefore, a score of 4 is warranted.

Total rank for potential for harm is 10.

Based on the Department's Guidelines, a **Minor potential for harm** is warranted for no manifests.

##### 2. Extent of Deviation:

Based on the Department's Guidelines, the **extent of deviation is Major** for Large Quantity Generators.

**Note:** The Potential for Harm and Extent of Deviation from the regulations are determined for use in evaluating penalty amounts using EPA's Penalty Matrices.



**VIOLATION**  
40 CFR 262.20

**Seriousness of Violation Penalty**

- |                         |                        |
|-------------------------|------------------------|
| 1. Potential for Harm:  | <u>Minor</u>           |
| 2. Extent of Deviation: | <u>Major</u>           |
| 3. Matrix Cell Range:   | <u>\$1500 - \$4999</u> |
| Penalty Amount Chosen:  | <u>\$2250</u>          |
|                         | Mid Range of Cell      |
| 4. Assessment:          | <u>\$2250</u>          |

**Penalty Adjustments**

- |   | <u>Percentage<br/>Change*</u> | <u>Dollar<br/>Amount</u> |
|---|-------------------------------|--------------------------|
| a. Good faith efforts to comply/lack of good faith: | _____                         | _____                    |
| b. Degree of willfulness and/ or negligence:        | _____                         | _____                    |
| c. History of Noncompliance:                        | _____                         | _____                    |
| d. Other unique factors:                            | _____                         | _____                    |
| e. Justification for adjustments:                   | _____                         | _____                    |

\* Percentage adjustments are applied to the dollar amount assessed (Line 4).

- |   |                    |
|---|--------------------|
| 5. Adjusted Per-day Penalty (Line 4, $\pm$ Adjustments (Lines a-e):       | <u>\$2250</u>      |
| 6. Multi-day Penalty Amount Chosen From Multi-day Matrix Cell:            | <u>\$100-\$600</u> |
| 7. Number of Days of Violation Minus One:                                 | <u>1</u>           |
| 8. Multi-day Penalty (Line 6 x Line 7, Part II):                          | <u>\$300</u>       |
| 9. Economic Benefit of Noncompliance:                                     | _____              |
| 10. Total Penalty (Lines 5 + 8 + 9):                                      | <u>\$2550</u>      |
| 11. Ability to Pay Adjustment: Justification for Adjustment:              | _____              |
| 12. Total Penalty Amount (must not exceed \$25,000 per day of violation): | <u>\$2550</u>      |

## EXHIBIT II

### PENALTY COMPUTATION WORKSHEET

Company Name: Custom Fab

Regulation Violated: 40 CFR 262.41

**VIOLATION:** "A generator who ships any hazardous waste off-site to a treatment, storage or disposal facility within the U.S. must prepare and submit a single copy of a Biennial Report to the Regional Administrator by March 1 of each even numbered year." Specifically, Custom Fab failed to submit biennial reports for calendar year 1999.

#### PENALTY JUSTIFICATION

Potential for Harm and Extent of Deviation were determined using the Department's "Guidelines for Characterizing RCRA Violations", and are in accordance with Department policy.

##### 1. Potential for Harm:

Based on the Department's Guidelines, a **Minor potential for harm** is warranted for failure to file a biennial report.

##### 2. Extent of Deviation:

Based on the Department's Guidelines, the **extent of deviation is Major** for a Large Quantity Generator.

**Note:** The Potential for Harm and Extent of Deviation from the regulations are determined for use in evaluating penalty amounts using EPA's Penalty Matrices.

**VIOLATION**  
40 CFR 262.41

Seriousness of Violation Penalty

- |                         |                                    |
|-------------------------|------------------------------------|
| 1. Potential for Harm:  | <u>Minor</u>                       |
| 2. Extent of Deviation: | <u>Major</u>                       |
| 3. Matrix Cell Range:   | <u>\$1500 - \$ 2999</u>            |
| Penalty Amount Chosen:  | <u>\$2250</u><br>Mid Range of Cell |
| 4. Assessment:          | <u>\$2250</u>                      |

Penalty Adjustments

	<u>Percentage Change*</u>	<u>Dollar Amount</u>
a. Good faith efforts to comply/lack of good faith:	_____	_____
b. Degree of willfulness and/ or negligence:	_____	_____
c. History of Noncompliance:	_____	_____
d. Other unique factors:	_____	_____
e. Justification for adjustments:	_____	_____

\* Percentage adjustments are applied to the dollar amount assessed (Line 4).

- |   |               |
|---|---------------|
| 5. Adjusted Per-day Penalty (Line 4, ± Adjustments (Lines a-e):           | <u>\$2250</u> |
| 6. Multi-day Penalty Amount Chosen From Multi-day Matrix Cell:            | _____         |
| 7. Number of Days of Violation Minus One: (2 years -1)                    | _____         |
| 8. Multi-day Penalty (Line 6 x Line 7, Part II):                          | _____         |
| 9. Economic Benefit of Noncompliance:                                     | _____         |
| 10. Total Penalty (Lines 5 + 8 + 9):                                      | <u>\$2250</u> |
| 11. Ability to Pay Adjustment: Justification for Adjustment:              | _____         |
| 12. Total Penalty Amount (must not exceed \$25,000 per day of violation): | <u>\$2250</u> |

## EXHIBIT II

### PENALTY COMPUTATION WORKSHEET

Company Name: Custom Fab

Regulation Violated: 40 CFR 265.16(a)(1)

**VIOLATION:** "Facility personnel must successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with the requirements of this part." Specifically, Custom Fab failed to provide facility personnel training in hazardous waste management procedures.

#### PENALTY JUSTIFICATION

Potential for Harm and Extent of Deviation were determined using the Department's "Guidelines for Characterizing RCRA Violations", and are in accordance with Department policy.

1. Potential for Harm:

Based on the Department's Guidelines, a **Moderate potential for harm** is warranted for failure to conduct training by a Large Quantity Generator.

2. Extent of Deviation:

Based on the Department's Guidelines, the **extent of deviation is Major**.

**Note:** The Potential for Harm and Extent of Deviation from the regulations are determined for use in evaluating penalty amounts using EPA's Penalty Matrices.

**VIOLATION**  
40 CFR 265.16(a)(1)

**Seriousness of Violation Penalty**

- |                         |                                    |
|-------------------------|------------------------------------|
| 1. Potential for Harm:  | <u>Moderate</u>                    |
| 2. Extent of Deviation: | <u>Major</u>                       |
| 3. Matrix Cell Range:   | <u>\$8000 - \$10,999</u>           |
| Penalty Amount Chosen:  | <u>\$8500</u><br>Low Range of Cell |
| 4. Assessment:          | <u>\$8500</u>                      |

**Penalty Adjustments**

	<u>Percentage Change*</u>	<u>Dollar Amount</u>
a. Good faith efforts to comply/lack of good faith:	_____	_____
b. Degree of willfulness and/ or negligence:	_____	_____
c. History of Noncompliance:	_____	_____
d. Other unique factors:	_____	_____
e. Justification for adjustments:	_____	_____

\* Percentage adjustments are applied to the dollar amount assessed (Line 4).

- |   |               |
|---|---------------|
| 5. Adjusted Per-day Penalty (Line 4, ± Adjustments (Lines a-e):           | <u>\$8500</u> |
| 6. Multi-day Penalty Amount Chosen From Multi-day Matrix Cell:            | _____         |
| 7. Number of Days of Violation Minus One:                                 | _____         |
| 8. Multi-day Penalty (Line 6 x Line 7, Part II):                          | _____         |
| 9. Economic Benefit of Noncompliance:                                     | _____         |
| 10. Total Penalty (Lines 5 + 8 + 9):                                      | <u>\$8500</u> |
| 11. Ability to Pay Adjustment: Justification for Adjustment:              | _____         |
| 12. Total Penalty Amount (must not exceed \$25,000 per day of violation): | <u>\$8500</u> |

## EXHIBIT II

### PENALTY COMPUTATION WORKSHEET

Company Name: Custom Fab

Regulation Violated: 40 CFR 265.37

**VIOLATION:** "The owner or operator must attempt to make arrangements, as appropriate to the type of waste, with police, fire department(s), emergency response teams, hospitals, etc., with documentation of refusals, if any." Specifically, Custom Fab failed to make arrangements with any local authorities and/or document responses or refusals.

#### PENALTY JUSTIFICATION

Potential for Harm and Extent of Deviation were determined using the Department's "Guidelines for Characterizing RCRA Violations", and are in accordance with Department policy.

1. Potential for Harm:

Based on the Department's Guidelines, a **Minor potential for harm** is warranted for failure to notify local authorities.

2. Extent of Deviation:

Based on the Department's Guidelines, the **extent of deviation is Major** for failure of a Large Quantity Generator to notify local authorities.

**Note:** The Potential for Harm and Extent of Deviation from the regulations are determined for use in evaluating penalty amounts using EPA's Penalty Matrices.

**VIOLATION**  
40 CFR 265.37

**Seriousness of Violation Penalty**

- |                         |                                    |
|-------------------------|------------------------------------|
| 1. Potential for Harm:  | <u>Minor</u>                       |
| 2. Extent of Deviation: | <u>Major</u>                       |
| 3. Matrix Cell Range:   | <u>\$1500 - \$2999</u>             |
| Penalty Amount Chosen:  | <u>\$2250</u><br>Mid Range of Cell |
| 4. Assessment:          | <u>\$2250</u>                      |

**Penalty Adjustments**

	<u>Percentage Change*</u>	<u>Dollar Amount</u>
a. Good faith efforts to comply/lack of good faith:	_____	_____
b. Degree of willfulness and/ or negligence:	_____	_____
c. History of Noncompliance:	_____	_____
d. Other unique factors:	_____	_____
e. Justification for adjustments:	_____	_____

\* Percentage adjustments are applied to the dollar amount assessed (Line 4).

- |   |               |
|---|---------------|
| 5. Adjusted Per-day Penalty (Line 4, ± Adjustments (Lines a-e):           | <u>\$2250</u> |
| 6. Multi-day Penalty Amount Chosen From Multi-day Matrix Cell:            | _____         |
| 7. Number of Days of Violation Minus One:                                 | _____         |
| 8. Multi-day Penalty (Line 6 x Line 7, Part II):                          | _____         |
| 9. Economic Benefit of Noncompliance:                                     | _____         |
| 10. Total Penalty (Lines 5 + 8 + 9):                                      | <u>\$2250</u> |
| 11. Ability to Pay Adjustment: Justification for Adjustment:              | _____         |
| 12. Total Penalty Amount (must not exceed \$25,000 per day of violation): | <u>\$2250</u> |

## EXHIBIT II

### PENALTY COMPUTATION WORKSHEET

Company Name: Custom Fab

Regulation Violated: 40 CFR 265.173(a)

**VIOLATION:** "A container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste." Specifically, Custom Fab failed to keep two hazardous waste containers closed during storage.

#### PENALTY JUSTIFICATION

Potential for Harm and Extent of Deviation were determined using the Department's "Guidelines for Characterizing RCRA Violations", and are in accordance with Department policy.

##### 1. Potential for Harm:

Nature of the waste: Category 2 hazardous waste, therefore, a score of 4 is warranted.

Volume of waste: The volume of waste is less than 6 drums, therefore, a score of 2 is warranted.

Location of receptors: There was a potential for discharge, therefore, a score of 4 is warranted.

Total rank for potential for harm is 10.

Based on the Department's Guidelines, a **Minor potential for harm** is warranted for 2 open drums.

##### 2. Extent of Deviation:

Based on the Department's Guidelines, the **extent of deviation is Major**.

**Note:** The Potential for Harm and Extent of Deviation from the regulations are determined for use in evaluating penalty amounts using EPA's Penalty Matrices.



**VIOLATION**  
40 CFR 265.173(a)

**Seriousness of Violation Penalty**

- |                         |                                    |
|-------------------------|------------------------------------|
| 1. Potential for Harm:  | <u>Minor</u>                       |
| 2. Extent of Deviation: | <u>Major</u>                       |
| 3. Matrix Cell Range:   | <u>\$1500 - \$2999</u>             |
| Penalty Amount Chosen:  | <u>\$2250</u><br>Mid Range of Cell |
| 4. Assessment:          | <u>\$2250</u>                      |

**Penalty Adjustments**

	<u>Percentage Change*</u>	<u>Dollar Amount</u>
a. Good faith efforts to comply/lack of good faith:	_____	_____
b. Degree of willfulness and/ or negligence:	_____	_____
c. History of Noncompliance:	_____	_____
d. Other unique factors:	_____	_____
e. Justification for adjustments:	_____	_____

\* Percentage adjustments are applied to the dollar amount assessed (Line 4).

- |   |               |
|---|---------------|
| 5. Adjusted Per-day Penalty (Line 4, ± Adjustments (Lines a-e):           | <u>\$2250</u> |
| 6. Multi-day Penalty Amount Chosen From Multi-day Matrix Cell:            | _____         |
| 7. Number of Days of Violation Minus One:                                 | _____         |
| 8. Multi-day Penalty (Line 6 x Line 7, Part II):                          | _____         |
| 9. Economic Benefit of Noncompliance:                                     | _____         |
| 10. Total Penalty (Lines 5 + 8 + 9):                                      | <u>\$2250</u> |
| 11. Ability to Pay Adjustment: Justification for Adjustment:              | _____         |
| 12. Total Penalty Amount (must not exceed \$25,000 per day of violation): | <u>\$2250</u> |

## EXHIBIT II

### PENALTY COMPUTATION WORKSHEET

Company Name: Custom Fab

Regulation Violated: 40 CFR 265.174

**VIOLATION:** "Generators of hazardous waste who accumulate hazardous waste on-site under 40 CFR 262.34, shall maintain written documentation of the inspections required under 40 CFR Part 265." "The owner or operator must inspect areas where containers are stored, at least weekly, looking for leaks and for deterioration caused by corrosion or other factors." Specifically, Custom Fab failed to document facility inspections according to a written schedule and to maintain written inspection logs.

#### PENALTY JUSTIFICATION

Potential for Harm and Extent of Deviation were determined using the Department's "Guidelines for Characterizing RCRA Violations", and are in accordance with Department policy.

1. Potential for Harm:

Based on the Department's Guidelines, a **Minor potential for harm** is warranted for failure to document weekly inspections.

2. Extent of Deviation:

Based on the Department's Guidelines, a **Minor potential for harm** is warranted.

**Note:** The Potential for Harm and Extent of Deviation from the regulations are determined for use in evaluating penalty amounts using EPA's Penalty Matrices.

**VIOLATION**  
40 CFR 265.174

**Seriousness of Violation Penalty**

- |                         |                                   |
|-------------------------|-----------------------------------|
| 1. Potential for Harm:  | <u>Minor</u>                      |
| 2. Extent of Deviation: | <u>Minor</u>                      |
| 3. Matrix Cell Range:   | <u>\$100 - \$499</u>              |
| Penalty Amount Chosen:  | <u>\$300</u><br>Mid Range of Cell |
| 4. Assessment:          | <u>\$300</u>                      |

**Penalty Adjustments**

	<u>Percentage Change*</u>	<u>Dollar Amount</u>
a. Good faith efforts to comply/lack of good faith:	_____	_____
b. Degree of willfulness and/ or negligence:	_____	_____
c. History of Noncompliance:	_____	_____
d. Other unique factors:	_____	_____
e. Justification for adjustments:	_____	_____

\* Percentage adjustments are applied to the dollar amount assessed (Line 4).

- |   |              |
|---|--------------|
| 5. Adjusted Per-day Penalty (Line 4, ± Adjustments (Lines a-e):           | <u>\$300</u> |
| 6. Multi-day Penalty Amount Chosen From Multi-day Matrix Cell:            | _____        |
| 7. Number of Days of Violation Minus One:                                 | _____        |
| 8. Multi-day Penalty (Line 6 x Line 7, Part II):                          | _____        |
| 9. Economic Benefit of Noncompliance:                                     | _____        |
| 10. Total Penalty (Lines 5 + 8 + 9):                                      | <u>\$300</u> |
| 11. Ability to Pay Adjustment: Justification for Adjustment:              | _____        |
| 12. Total Penalty Amount (must not exceed \$25,000 per day of violation): | <u>\$300</u> |

## EXHIBIT II

### PENALTY COMPUTATION WORKSHEET

Company Name: Custom Fab

Regulation Violated: 40 CFR 268.7(a)(8)

**VIOLATION:** "Generators must retain on-site a copy of all notices, certifications, demonstrations, waste analysis data, and other documentation produced pursuant to this section for at least three years from the date that the waste that is the subject of such documentation was last sent to on-site or off-site treatment, storage, or disposal." Specifically, Custom Fab failed to retain copies of LDR notification documentation.

#### PENALTY JUSTIFICATION

Potential for Harm and Extent of Deviation were determined using the Department's "Guidelines for Characterizing RCRA Violations", and are in accordance with Department policy.

##### 1. Potential for Harm:

Based on the Department's Guidelines, a **Minor potential for harm** is warranted for failure to retain LDR notices for a minimum of 3 years.

##### 2. Extent of Deviation:

Based on the Department's Guidelines, a **Minor potential for harm** is warranted.

**Note:** The Potential for Harm and Extent of Deviation from the regulations are determined for use in evaluating penalty amounts using EPA's Penalty Matrices.

**VIOLATION**  
40 CFR 268.7(a)(8)

**Seriousness of Violation Penalty**

- |                         |                                   |
|-------------------------|-----------------------------------|
| 1. Potential for Harm:  | <u>Minor</u>                      |
| 2. Extent of Deviation: | <u>Minor</u>                      |
| 3. Matrix Cell Range:   | <u>\$100 - \$499</u>              |
| Penalty Amount Chosen:  | <u>\$300</u><br>Mid Range of Cell |
| 4. Assessment:          | <u>\$300</u>                      |

**Penalty Adjustments**

	<u>Percentage Change*</u>	<u>Dollar Amount</u>
a. Good faith efforts to comply/lack of good faith:	_____	_____
b. Degree of willfulness and/ or negligence:	_____	_____
c. History of Noncompliance:	_____	_____
d. Other unique factors:	_____	_____
e. Justification for adjustments:	_____	_____

\* Percentage adjustments are applied to the dollar amount assessed (Line 4).

- |   |              |
|---|--------------|
| 5. Adjusted Per-day Penalty (Line 4, ± Adjustments (Lines a-e):           | <u>\$300</u> |
| 6. Multi-day Penalty Amount Chosen From Multi-day Matrix Cell:            | _____        |
| 7. Number of Days of Violation Minus One:                                 | _____        |
| 8. Multi-day Penalty (Line 6 x Line 7, Part II):                          | _____        |
| 9. Economic Benefit of Noncompliance:                                     | _____        |
| 10. Total Penalty (Lines 5 + 8 + 9):                                      | <u>\$300</u> |
| 11. Ability to Pay Adjustment: Justification for Adjustment:              | _____        |
| 12. Total Penalty Amount (must not exceed \$25,000 per day of violation): | <u>\$300</u> |

## EXHIBIT II

### PENALTY COMPUTATION WORKSHEET

Company Name: Custom Fab

Regulation Violated: 40 CFR 279.22(c)(1)

**VIOLATION:** "Containers and above ground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words *Used Oil*." Specifically, Custom Fab failed to mark used oil storage drums with the words *Used Oil*.

#### PENALTY JUSTIFICATION

Potential for Harm and Extent of Deviation were determined using the Department's "Guidelines for Characterizing RCRA Violations", and are in accordance with Department policy.

1. Potential for Harm:

Based on the Department's Guidelines, a **Minor potential for harm** is warranted for failure to label 2 used oil drums.

2. Extent of Deviation:

Based on the Department's Guidelines, a **Minor potential for harm** is warranted.

**Note:** The Potential for Harm and Extent of Deviation from the regulations are determined for use in evaluating penalty amounts using EPA's Penalty Matrices.

**VIOLATION**  
40 CFR 279.22(c)(1)

**Seriousness of Violation Penalty**

- |                         |                      |
|-------------------------|----------------------|
| 1. Potential for Harm:  | <u>Minor</u>         |
| 2. Extent of Deviation: | <u>Minor</u>         |
| 3. Matrix Cell Range:   | <u>\$100 - \$499</u> |
| Penalty Amount Chosen:  | <u>\$300</u>         |
|                         | Mid Range of Cell    |
| 4. Assessment:          | <u><u>\$300</u></u>  |

**Penalty Adjustments**

	<u>Percentage Change*</u>	<u>Dollar Amount</u>
a. Good faith efforts to comply/lack of good faith:	_____	_____
b. Degree of willfulness and/ or negligence:	_____	_____
c. History of Noncompliance:	_____	_____
d. Other unique factors:	_____	_____
e. Justification for adjustments:	_____	_____

\* Percentage adjustments are applied to the dollar amount assessed (Line 4).

- |   |              |
|---|--------------|
| 5. Adjusted Per-day Penalty (Line 4, ± Adjustments (Lines a-e):           | <u>\$300</u> |
| 6. Multi-day Penalty Amount Chosen From Multi-day Matrix Cell:            | _____        |
| 7. Number of Days of Violation Minus One:                                 | _____        |
| 8. Multi-day Penalty (Line 6 x Line 7, Part II):                          | _____        |
| 9. Economic Benefit of Noncompliance:                                     | _____        |
| 10. Total Penalty (Lines 5 + 8 + 9):                                      | <u>\$300</u> |
| 11. Ability to Pay Adjustment: Justification for Adjustment:              | _____        |
| 12. Total Penalty Amount (must not exceed \$25,000 per day of violation): | <u>\$300</u> |

## EXHIBIT II

### PENALTY COMPUTATION WORKSHEET

Company Name: Custom Fab

Regulation Violated: 62-710.850 F.A.C.

**VIOLATION:** "No person who removes or manages used oil filters shall dispose of such filters in a landfill or commingle with other solid waste for disposal in a landfill." Specifically, Custom Fab could not provide documentation indicating that used oil filters were disposed of properly.

#### PENALTY JUSTIFICATION

Potential for Harm and Extent of Deviation were determined using the Department's "Guidelines for Characterizing RCRA Violations", and are in accordance with Department policy.

##### 1. Potential for Harm:

Based on the Department's Guidelines, a **Minor potential for harm** is warranted for less than 1 drum of oil filters to go to the landfill.

##### 2. Extent of Deviation:

Based on the Department's Guidelines, a **Minor potential for harm** is warranted.

**Note:** The Potential for Harm and Extent of Deviation from the regulations are determined for use in evaluating penalty amounts using EPA's Penalty Matrices.



**VIOLATION**  
62-710.850 F.A.C.

**Seriousness of Violation Penalty**

- |                         |                      |
|-------------------------|----------------------|
| 1. Potential for Harm:  | <u>Minor</u>         |
| 2. Extent of Deviation: | <u>Minor</u>         |
| 3. Matrix Cell Range:   | <u>\$100 - \$499</u> |
| Penalty Amount Chosen:  | <u>\$300</u>         |
|                         | Mid Range of Cell    |
| 4. Assessment:          | <u>\$300</u>         |

**Penalty Adjustments**

	<u>Percentage Change*</u>	<u>Dollar Amount</u>
a. Good faith efforts to comply/lack of good faith:	_____	_____
b. Degree of willfulness and/ or negligence:	_____	_____
c. History of Noncompliance:	_____	_____
d. Other unique factors:	_____	_____
e. Justification for adjustments:	_____	_____

\* Percentage adjustments are applied to the dollar amount assessed (Line 4).

- |   |              |
|---|--------------|
| 5. Adjusted Per-day Penalty (Line 4, $\pm$ Adjustments (Lines a-e):       | <u>\$300</u> |
| 6. Multi-day Penalty Amount Chosen From Multi-day Matrix Cell:            | _____        |
| 7. Number of Days of Violation Minus One:                                 | _____        |
| 8. Multi-day Penalty (Line 6 x Line 7, Part II):                          | _____        |
| 9. Economic Benefit of Noncompliance:                                     | _____        |
| 10. Total Penalty (Lines 5 + 8 + 9):                                      | <u>\$300</u> |
| 11. Ability to Pay Adjustment: Justification for Adjustment:              | _____        |
| 12. Total Penalty Amount (must not exceed \$25,000 per day of violation): | <u>\$300</u> |